

CALIFORNIA STATE PERSONNEL BOARD MEETING  
Los Angeles Airport Hilton  
5711 West Century Blvd.  
Los Angeles, California 90045-5631

[www.spb.ca.gov](http://www.spb.ca.gov)

Public Session Location - Plaza A

Closed Session Location - Plaza A

FULL BOARD MEETING MINUTES

JUNE 6, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President  
Ron Alvarado, Vice President  
Richard Carpenter, Member  
William Elkins, Member  
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The staff is working with the Department of Finance to develop a means for addressing issues related to compliance with the Dymally-Alattore Bilingual Services Act.
- B. The July Board meeting will include a hearing on proposed revisions to the selection process for Career Executive Assignments and a follow-up hearing on goals and timetables.

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- C. Staff made a presentation at the California Association of Managers and Supervisors conference.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. Garcia v. State Personnel Board - In an unpublished decision, the Court of Appeals affirmed the Board's precedential decision in this case, affirming the dismissal of a parole officer who was charged with smoking a marijuana cigarette off duty.
- B. Pollock v. State Personnel Board - The Board successfully defended against a request for attorney's fees in this Superior Court action. The court found that although the court did not sustain all of the Board's findings, the Board's action was not arbitrary or capricious.

Other

- A. The Office of the Attorney General has granted the Board's request for time to file a letter providing input on the issue of whether Labor Code section 96 applies to peace officers who are disciplined for off-duty misconduct.
- B. State Employee Mediation Program - Board staff is investigating mediation programs in other states dealing with medical issues.

4. REPORT ON LEGISLATION - Judy Balmain  
(Report given by Walter Vaughn, Executive Officer)

The Board voted on the following:

- A. AB 649 (Machado) - Would among other things, make major changes in the way appeals from adverse actions and rejections during probation involving civil service employees in Bargaining Unit 11 (Engineering and Scientific Technicians) are adjudicated.

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ACTION: Oppose unless amended

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- B. SB 2047 (Polanco) - Declares the constitutions prohibition against discrimination and the granting of preference to individuals based on race, gender, color, ethnicity, or national origin in public education and public contracting does not include outreach programs, including focused recruitment, if minority groups and women are under represented in relation to their representation in the civilian labor force.

ACTION: Neutral

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

5. ORAL ARGUMENT

Oral argument in the matter of SANDRA JOHNSON, CASE NO. 99-1256. Appeal from demotion. Department of Corrections.

Persons Participating:

Mark Carroll, Staff Counsel, CCPOA, representing  
appellant

Vickie L. Brewer, Senior Staff Counsel, representing the  
Department of Corrections

ACTION: Submitted

6. ORAL ARGUMENT

Oral argument in the matter of MICHAEL BRADLEY, CASE NO. 99-3187. Appeal for reinstatement after automatic resignation. California State University, Long Beach.

Persons Participating:

Michael Hersh, Attorney at Law, California State  
Employees Association, representing appellant  
Gale S. Baker, University Counsel, Office of General  
Counsel, representing California State University

ACTION: Submitted

7. ORAL ARGUMENT

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Oral argument in the matter of AARON TUTER, CASE NO. 99-3383. Appeal from dismissal. Department of Corrections.

Persons Participating:

Amiel Jaramillo, Attorney at Law, representing appellant Wesley M. Travis, Staff Counsel, representing the Department of Corrections

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of RUSTY IVERSON, CASE NO. 99-3640. Appeal from 5 percent reduction in salary for 6 months.

Persons Participating:

Chris Uyemura, Staff Legal Counsel, CCPOA, representing appellant  
James Middleton, Employee Relations Officer, representing Corrections/CSP-LAC

ACTION: Submitted

9. LABOR CODE SECTION 96

Communication to Attorney General of Board views on applicability to public employees, and what position the Board desires to take on the subject.

Persons Participating:

Elise Rose, Chief Counsel, California State Personnel  
Board  
Bruce Monfross, Staff Counsel, California State Personnel  
Board

ACTION: Adopted on June 6, 2000.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

BOARD ACTIONS

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10. STATE PERSONNEL BOARD SUMMARY MINUTES OF MAY 11-12, 2000  
AND MAY 23, 2000

ACTION: Adopted on June 6, 2000.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

11. ACTION ON SUBMITTED ITEMS

ACTION: See page 13

12. ADMINISTRATIVE LAW JUDGE CASES

On June 6, 2000, the Board adopted the following  
decisions presented by Elise Rose, Chief Counsel,  
California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

#### COURT REMAND

ROBERT MCCUTCHAN, CASE NO. 97-2291

Appeal from dismissal

Department of the Youth Authority

ACTION: Board Decision (After Court Remand)

1. The dismissal of Robert McCutchan from the position  
of Teacher (High School) (Correctional Facility)  
with Ventura School, Department of the Youth  
Authority at Camarillo is modified to a suspension  
for twelve months;
2. The Department shall pay to appellant all back pay,  
benefits, and interest, if any, that would have  
accrued to him had he been suspended for twelve  
months, effective May 1, 1997, instead of dismissed.

#### CHIEF COUNSEL RESOLUTIONS

JAMES A. GRASTON, JR., CASE NO. 99-3445

Appeal from 15 days suspension

Employment Development Department

ACTION: On June 6, 2000, adopted Board resolution  
ordering the Employment Development Department to  
withdraw, cancel, and expunge from appellant's official  
personnel file the modified Notice of Adverse Action of  
official reprimand and all supporting documentation  
thereto.

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JESSICA BUNAC, CASE NO. 99-2492

Appeal from rejection during probationary period

California Housing Finance Agency at Sacramento

ACTION: On June 6, 2000, adopted Board resolution that the appellant's request that the Board act to enforce its decision of October 20, 1999 is denied without prejudice to the right of appellant to seek a judicial remedy against California Housing Finance Agency.

PROPOSED DECISIONS

RUTH A. JOHNSON, CASE NO. 99-3302

Discrimination/retaliation Complaint

Department of Corrections

ACTION: Discrimination/retaliation complaint dismissed as untimely filed

HIROSHI HISAMOTO, CASE NO. 99-4519

Discrimination Complaint

Department of Social Services

ACTION: Discrimination complaint denied

LOUISE RODELL, CASE NO. 99-5250

Appeal from rejection

Department of Parks and Recreation

ACTION: Rejection affirmed and appeal denied

HOLLY A. HOFFMAN, CASE NO. 99-0111

Appeal from 3 days suspension

Department of Justice

ACTION: Suspension sustained

JAMES D. GORMAN, CASE NO. 99-5000

Appeal from 5 percent reduction in salary for 6 pay periods

Department of Corrections

ACTION: Reduction in salary sustained

LISANDRO DeHOYOS, CASE NO. 99-1478

Appeal from rejection of complaint of Discrimination and retaliation

Department of Corrections

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself

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PETITIONS FOR REHEARING

MARIA COLON, CASE NO. 99-5161P

Appeal from back pay/Medical termination

Department of Health Services

ACTION: Petition for rehearing filed by respondent  
denied

JOHN P. McCREADY, Case No. 98-3848P

Appeal from dismissal

Department of the Youth Authority

ACTION: Petition for rehearing filed by respondent  
denied

CHYRL PIAZZA, CASE NO. 99-5249P

Appeal from rejection

Monterey County Department Of Social Services

ACTION: Petition for rehearing filed by appellant  
granted

JOSEPH A. SILVA, CASE NO. 97-3563P

Complaint of retaliation

Department of Forestry and Fire Protection

ACTION: Petition for rehearing filed by appellant denied

VINCENT TELA, CASE NO. 99-1895

Appeal from dismissal

Department of Corrections

ACTION: Petition for rehearing filed by appellant denied

FRED L. MARTINO, CASE NO. 99-3892

Appeal from dismissal

Department of Justice

ACTION: Petition for rehearing filed by appellant denied

13. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 14-16.

14. MISCELLANEOUS APPEALS DIVISION CASES  
(Discrimination Complaints, Withholds, Voided  
Appointments, Rule 211 Appeals, Petitions for Rehearing)

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On June 6, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. MANDY APPLETON, Case NO. 99-4375  
Classification: Correctional Officer  
ACTION: DENIED
- B. ERIC A. BEACH, CASE NO. 99-4305  
Classification: Communications Operator I, CHP  
ACTION: DENIED
- C. BOBBIE BIEDERMAN, CASE NO. 99-4351  
Classification: Correctional Officer  
ACTION: DENIED
- D. ERIC LAMONT FORD, CASE NO. 99-4283  
Classification: Correctional Officer  
ACTION: DENIED
- E. OLIVIA V. GONZALEZ, CASE NO. 99-4307  
Classification: Assistant Information System Analyst  
ACTION: DENIED
- F. DONALD EUGENE KRIVANEK, CASE NO. 99-4285  
Classification: Correctional Officer  
ACTION: DENIED
- G. AMY LANDERS, CASE NO. 99-4304  
Classification: Medical Technician Assistant  
ACTION: DENIED
- H. JUAN MALDONADO, JR., CASE NO. 99-4378  
Classification: Correctional Officer  
ACTION: DENIED
- I. RONALD SHEPP, CASE NO. 99-3830  
Classification: Correctional Officer  
ACTION: DENIED
- J. LUIS FERNANDO SILVESTRI, CASE NO. 99-4373  
Classification: Correctional Officer  
ACTION: DENIED
- K. FRANCISCO J. SOTO, Jr., CASE NO. 99-4303  
Classification: Correctional Officer  
ACTION: DENIED

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- L. KARI WELCH, CASE NO. 99-4301  
Classification: Motor Vehicle Field Representative  
ACTION: DENIED

DISMISSAL CASE

- M. DIEGO GUERRA, CASE NO. 00-0773  
Classification: Correctional Officer  
ACTION: DISMISSED

15. MEDICAL APPEALS

On June 6, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. DANIEL TODD, CASE NO. 99-4627  
Classification: Cadet, California Highway Patrol  
ACTION: GRANTED
- B. JASON WEITZEL, CASE NO. 99-4769  
Classification: Cadet, California Highway Patrol  
ACTION: DENIED

DISMISSAL CASES

- C. SHAWNA D. ARROYO, CASE NO. 00-0888  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- D. ANTHONY E. COHEN, CASE NO. 00-0802  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- E. JOHN L. GONZALEZ, CASE NO. 00-1057  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- F. JAY JASPER, CASE NO. 00-1059  
Classification: Staff Services Manager Auditor  
ACTION: DISMISSED
- G. JOANNE KERR, CASE NO. 99-5355  
Classification: Office Assistant/Technician  
ACTION: DISMISSED

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- H. NICHOLAS MARSHALL, CASE NO. 99-4750  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- I. MICHAEL OMEL, CASE NO. 00-0643  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- J. KRISTINA PETERSON, CASE NO. 00-1238  
Classification: Vocational Rehabilitation Counselor  
ACTION: DISMISSED
- K. WILLARD SCRAM, CASE NO. 00-1131  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- L. STEVEN W. TURNER, CASE NO. 99-4739  
Classification: Psychiatric Technician  
ACTION: DISMISSED
- M. DAN WELSH, CASE NO. 00-1129  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED

16. NON-HEARING CALENDAR

On June 6, 2000, the Board adopted items A-F. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. AQUATIC PEST CONTROL, DEPARTMENT OF BOATING AND WATERWAYS SERIES  
AQUATIC PEST CONTROL SUPERVISOR, DEPARTMENT OF BOATING AND WATERWAYS  
AQUATIC PEST CONTROL PROGRAM MANAGER, DEPARTMENT OF BOATING AND WATERWAYS  
AQUATIC PEST CONTROL ASSISTANT PROGRAM MANAGER, DEPARTMENT OF BOATING AND WATERWAYS  
The Department of Boating and Waterways proposes specification changes to the class series of Aquatic Pest Control, Department of Boating and Waterways; to retitle Aquatic Pest Control Supervisor, Department of Boating and Waterways, to Aquatic Pest Control Program Manager, Department of Boating and Waterways; to establish the new class of Aquatic Pest Control Assistant Program Manager, Department

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of Boating and Waterways, with a 12-month probationary period and to amend Alternate Range Criteria 362 and 363.

B. CLINICAL DIETICIAN (SAFETY)

SUPERVISOR, VOCATIONAL SERVICES (SAFETY)

The Department of Developmental Services proposes to establish the classes of Clinical Dietician (Safety) with a 6-month probationary period and Supervisor, Vocational Services (Safety), with a 12-month probationary period.

C. PAINTER I (SAFETY)

UPHOLSTERER (SAFETY)

The Department of Developmental Services proposes to establish the classes of Painter I (Safety) and Upholsterer (Safety) with a 6-month probationary period.

D. The Department of Forestry and Fire Protection requests that the South Lake County Fire Protection District employees be transferred into State civil service.

E. The Department of Forestry and Fire Protection requests that the Carmel Highlands Fire Protection District employees be transferred into State civil service.

F. The Department of Forestry and Fire Protection requests that the Pioneer Fire Protection Department employees be transferred into State civil service.

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

A. AUDITOR

The Bureau of State Audits proposes to revise the series specification for Auditor, Bureau of State Audits.

ACTION: Noted

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

June 6, 2000

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) DEPUTY DIRECTOR, RESEARCH AND EVALUATION  
DIVISION

The California Children and Families Commission proposes to allocate the above position to the CEA category to be responsible for the general oversight of various evaluations, research projects and pilot programs funded by the commission. The department indicates the position will be at the second organizational level and will report to the Executive Director.

(2) DEPUTY DIRECTOR, OFFICE OF LEGAL SERVICES  
The Department of Child Support Services proposes to allocate the above position to the CEA category to be responsible for advising the directorate on all legal matters and the legal implications of administrative or legislative actions relevant to the department. The department indicates the position will be at the second organizational level and will report to the Executive Director.

(3) ASSISTANT DIRECTOR, FACILITIES AND FISCAL  
MANAGEMENT  
The Department of Justice proposes to allocate the above position to the CEA category to be responsible for directing the fiscal operations, which includes overseeing the budget office, accounting office, facilities management and telecommunications office and the departmental services office. The department indicates the position will be at the third organizational level and will report to the Director, Administrative Services Division.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) OMBUDSMAN  
The Department of Corrections' proposal to allocate the above positions to the CEA category has been approved effective May 1, 2000.

(2) CHIEF, OFFICE OF TECHNOLOGY RESOURCES

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The Department of General Services has withdrawn the proposal to allocate the above position to the CEA category effective May 4, 2000.

- (3) PROJECT MANAGER, SYSTEMS DESIGN AND DEVELOPMENT BUREAU  
(CALIFORNIA CHILD SUPPORT AUTOMATED SYSTEMS PROJECT)

The Franchise Tax Board's proposal to allocate the above position to the CEA category has been approved effective May 9, 2000.

- (4) CHIEF, ADMINISTRATION DIVISION

The Department of Managed Care's proposal to allocate the above position to the CEA category has been approved effective May 16, 2000.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

- (1) CHIEF, REGISTRATION SERVICES BRANCH

The Department of Motor Vehicles is requesting to refill the above position.

- (2) CHIEF, CALIFORNIA OFFICE OF WORKFORCE INVESTMENT

The Employment Development Department is requesting to refill the above position.

D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

- (1) CHIEF, OFFICE OF ENVIRONMENTAL ANALYSIS, REGULATIONS AND AUDITS

The Department of Toxic Substances Control's request to refill the above position has been approved effective May 1, 2000.

- (2) CHIEF OF LEGISLATION

The Contractors State License Board's request to refill the above position has been approved effective May 3, 2000.

ACTION: Noted

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A D J O U R N M E N T

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SUBMITTED

1. EQUAL OPPORTUNITY GOALS FOR MINORITIES AND WOMEN  
(Hearing held February 9, 2000).

NO ACTION

2. JAMES BLANCHARD, CASE NO. 99-3198. Appeal from constructive demotion. Department of Corrections. (Oral argument held May 2, 2000).

NO ACTION

3. NICHOLAS LEON, CASE NO. 98-3392. Appeal from 40-calendar day suspension. Department of Corrections. (Oral argument held May 2, 2000).

ACTION: On June 6, 2000, adopted Board decision modifying suspension to official reprimand.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

4. APPEAL OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS (IUOE) FROM THE EXECUTIVE OFFICER'S APPROVAL OF CALIFORNIA SCIENCE CENTER'S (CSC) COST-SAVINGS CONTRACT FOR EXPOSITION PARK GROUNDS MAINTENANCE PURSUANT TO GOVERNMENT CODE § 19130 (a). (Hearing held May 2, 2000).

NO ACTION

5. JANET G. HOUCHENS, CASE NO. 99-0891. Appeal from 5 percent reduction in salary for 1 month. Department of Forestry and Fire Protection. (Written argument presented May 2, 2000).

ACTION: On June 6, 2000, adopted Board decision revoking reduction in salary.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

6. SYLVIA C. SOLIS, CASE NO. 99-0574. Appeal from medical termination. Department of Motor Vehicles. (Written argument presented May 2, 2000).

NO ACTION

June 6, 2000

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending

before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

June 6, 2000

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.



I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on June 6, 2000.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

CALIFORNIA STATE PERSONNEL BOARD MEETING  
Los Angeles Airport Hilton  
5711 West Century Blvd.  
Los Angeles, California 90045-5631

[www.spb.ca.gov](http://www.spb.ca.gov)

Public Session Location - Plaza A

Closed Session Location - Plaza A

CONCURRENT BOARD MEETING MINUTES

JUNE 7, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President  
Ron Alvarado, Vice President  
Richard Carpenter, Member  
William Elkins, Member  
Sean Harrigan, Member

2. PLANNING SESSION

- A. PENDING LITIGATION
- B. RECOMMENDATIONS TO THE LEGISLATURE
- C. RECOMMENDATIONS TO THE GOVERNOR

ACTION: Planning session held.

A D J O U R N M E N T